THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19407 of 1998

Dated:03.10.2007

Between

Mecon Non Executive Employees Union and
Its Members rep., by Union President
E.Sankar Rao

..Petitioner

and

1.Chairman and Presiding Officer, Industrial Tribunal cum Labour Court,Visakhapatnam
And others.

…Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19407 of 1998

ORDER:

This writ petition is filed being aggrieved by the Award passed by the Industrial Tribunal-cum-Labour Court, Visakahapatnam to the extent of denying equal relief in a common award passed by it on 13th April, 1998 in MP No.(C) 5/95, MP No. (C) 7/95 and MP No. (C) 8/95.

It appears that when an industrial dispute being I.D.No.321 of 1994 was pending before the Industrial Tribunal-cum-Labour Court, the services of the members of the petitioner-Union were terminated along with others. The members of the petitioner-Union along with others has filed MP under Section 33(a) of the

Industrial Disputes Act, 1947 complaining that the very retrenchment of their services is contrary to the provisions of the Act, particularly, in view of the fact that the ID was pending before the Labour Court. Though in respect of others relief as sought for was granted, insofar as these members of the petitioner-Union are concerned, no relief was granted. Aggrieved by the same, the present writ petition is filed. There is no necessity to go into all the details.

It is suffice to notice the fact that the members of the petitioner-Union in theses MPs have categorically stated that they are contract labour engaged for a particular period. In view of the statement of the petitioner-Union and other evidence, the labour Court gave a finding which reads as under:

> "On the basis of that evidence this Court is given to test the validity or otherwise of the retrenchment assailed by the workmen in these petitions. Before actually embarking upon the exercise, it is necessary to point out that the learned counsel for the

management requested this court to segregate the cases of workman Veerabhadra Swamy concerned in MP (C)7/95, workman M.Srinivasa Rao concerned in MP (C)8/95 and workman S.Rajeswara Rao concerned in M.P (C) 5/95 all of the year 1995. He submitted that Veerabhadra Swamy was appointed on contract basis and therefore his discharge from service would not come within the meaning of retrenchment defined under Sec.2 (oo) of the I.D.Act. The said Veerabhhadra Swamy speaking as WW2 categorically admitted that from 22.7.1986 he worked under contract basis as Assistant. He further admitted as follows:

"It is true that as per Clause (1) of Ex.W54 my services are liable to be terminated after the contract period. It is true that this clause also provides for termination of service without notice and even before the completion of the contract period."

He also admitted that he continued to work beyond that period by virtue of the interim orders of the Hon'ble High Court. Now we have to turn to Sec.2 (oo) O in order to know whether a discharge as that of the said Veerabhadra Swamy would amount to retrenchment or not, Sec.2(oo), (bb) clearly postulates that a termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workmen concerned on its expiry or

of such contract being terminated under a stipulation in that behalf contained therein, as not being retrenchment at all. So the said Veerabhadra Swamy cannot get any relief in his Miscellaneous petition. Then we come to the case of another workman by name M.Srinivasa Rao examined as WW23 who also clearly admitted being merely a trainee. He joined service admittedly as an accountant trainee and it was a contract that was to last for a period of 3 years. If we go by the definition of the workman as also the definition of retrenchment this case turns out to be one not governed by the provisions of Industrial Disputes Act, though there is some ambiguity in construing the word 'apprentice' as meaning trainee also, the fact remains that his engagement was also admitted and for a particular period and as such he would, well-high, come under the teeth of Sec.2 (oo) (bb) if not Sec.2 (S) of Industrial Disputes Act. The third case is that of Rajeswara Rao. Inasmuch as the very industrial dispute insofar as he is concerned, is already held to be incompetent on the sole ground that his name did not figure in the array of workmen set out in the schedule to I.D his petition under Sec.33 (1) (a) read with 33A which is nothing but an offshoot of the Industrial Dispute cannot but be held to be incompetent."

In view of the fact that the members of

the petitioners-Union are contract workers, engaged for a particular period, the termination of their services would not fit into the teeth of retrenchment. The retrenchment of members of the petitioner-Union is covered by Section 2 (oo) (bb) of the Act, which permits the termination of services of the workmen as a result of the non-renewal of the contract of the employment between the employer and workmen concerned. The case of the members of the petitioner-Union is squarely covered by Section 2 (oo) (bb) of the Act. Therefore, the Labour Court has rightly denied the relief to the members of the petitioner-Union. Therefore, I am of the opinion that the Labour Court has not committed any error in passing the impugned award against the members of the petitioner-Union. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

3-10-2007

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